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May 6, 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

BY HAND DELIVERY

EX PARTE

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
Portals II
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: CC Docket 97-137 and CC Docket 98-121
Notice of Ex Parte Presentation

Dear Ms. Salas:

Pursuant to Section 1.1206(b) of the Commission's rules, Ameritech Corporation ("Ameritech") hereby submits this notice of an oral ex parte presentation in the above-referenced permit-but-disclose proceedings. On May 5, 1999, John Lenahan, Lynn Starr, and Rhonda Johnson of Ameritech and I met with Carol Matthey, Jane Jackson, Richard Lerner, Margaret Egler, and Elizabeth Nightingale of the Common Carrier Bureau ("CCB") to begin discussing the legal standards for demonstrating compliance with each of the requirements of the competitive checklist set forth in section 271(c)(2)(B) of the Communications Act of 1934, as amended. The attached written presentation sets forth Ameritech's understanding, based on prior Commission decisions, of the prima facie showing required to demonstrate compliance with eight of the fourteen checklist items enumerated therein.

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Ms. Magalie Roman Salas
May 6, 1999
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Copies of this Notice of Ex Parte Presentation have been provided to the Commission staff members identified below. An original and one copy also have been submitted to the Secretary's Office.

Respectfully submitted,

A handwritten signature in cursive script, reading "Linda G. Morrison".

Linda Morrison
Counsel for Ameritech

Attachment

cc: Carol Matthey, Policy & Planning Division, CCB
Margaret Egler, Policy & Planning Division, CCB
Elizabeth Nightingale, Policy & Planning Division, CCB
Jane Jackson, Competitive Pricing Division, CCB
Richard Lerner, Competitive Pricing Division, CCB
Lynn Starr, Ameritech
John Lenahan, Ameritech
Rhonda Johnson, Ameritech

CHECKLIST OF THE CHECKLIST

- Checklist Item (iii): Poles, Ducts, Conduits and Rights of Way
- Checklist Item (vii): 911/E911, Directory Assistance, Operator Call Completion Services
- Checklist Item (viii): White Pages Directory Listing
- Checklist Item (ix): Number Administration
- Checklist Item (x): Databases
- Checklist Item (xi): Number Portability
- Checklist Item (xii): Local Dialing Parity
- Checklist Item (xiii): Reciprocal Compensation

May 4, 1999

CHECKLIST ITEM (iii): POLES, DUCTS, CONDUITS AND RIGHTS-OF-WAY

1. This checklist item requires a BOC to provide “[n]ondiscriminatory access to the poles, ducts, conduits, and rights-of-way owned or controlled by [it] at just and reasonable rates in accordance with the requirements of section 224.”
2. Section 224 states that “[a] utility shall provide a cable television system or any telecommunications carrier with nondiscriminatory access to any pole, duct, conduit, or right-of-way owned or controlled by it.”
 - (a) however, section 224(f)(2) permits denial of access to its poles, ducts, conduits, and rights-of-way, on a discriminatory basis, “where there is insufficient capacity and for reasons of safety, reliability and generally engineering purposes.”
 - (b) section 224(b)(1) provides that the FCC shall regulate the rates, terms, and conditions governing pole attachments to ensure that they are “just and reasonable.”
3. To satisfy this item, a BOC must have expeditious procedures for attachment applications so that it cannot “use its control of the enumerated facilities and property to impede, inadvertently or otherwise, the installation and maintenance of telecommunications . . . equipment by those seeking to compete in those fields.” *Second BellSouth Louisiana Order*, ¶¶ 176-77.
4. In Ameritech Michigan’s application, Ameritech stated that it provided non-discriminatory access to poles, ducts, conduits and rights-of-way by three means: (1) providing access to its maps and records; (2) employing a nondiscriminatory methodology for assigning existing spare capacity among competing carriers; and (3) ensuring comparable treatment in completing the steps for access to these items through Ameritech’s “Structure Access Coordinator.” *Ameritech Michigan Order*, ¶ 117.
4. In BellSouth’s second Louisiana application, the Commission found that BellSouth satisfied this element by making a *prima facie* showing that it had nondiscriminatory procedures for:
 - (a) evaluating facilities requests pursuant to section 224 of the Act and the *First Report and Order*;
 - (b) granting competitors nondiscriminatory access to information regarding the availability of facilities;
 - (c) permitting competitors to use BellSouth workers to complete site preparation; and

CHECKLIST ITEM (iii): POLES, DUCTS, CONDUITS AND RIGHTS-OF-WAY

- (d) complying with state and federal pole attachment rates. *Second BellSouth Louisiana Order*, ¶ 174.
- 5. BellSouth utilized a standard license agreement for access to poles, conduits, ducts, and rights of way, which outlined specific terms and conditions. *Id.*, ¶ 177.
- 6. Evaluation of Facilities Requests. BellSouth provided a “user’s guide” to assist competitive LECs in preparing application forms, and stated that it would handle all applications on a first-come, first-served basis. *Id.*, ¶ 177. BellSouth committed to inform competitors within 45 days of a request if facilities were not available; otherwise a request would be deemed granted. *Id.*, ¶¶ 176-77. BellSouth did not reserve space for itself or give itself a preference when assigning space. *Id.*, ¶ 178.
- 7. Access to Facilities Information. BellSouth also gave competitors nondiscriminatory access to information about its facilities. In its SGAT, for instance, BellSouth committed to provide “access to relevant plats, maps, engineering records and other data” through a bona fide request process. *Id.*, ¶ 180.
- 8. Choice of Workforce. BellSouth also permitted competitive LECs to utilize their own contractors, provided such contractors were “BellSouth-certified.” *Id.*, ¶ 181.
- 9. Rates. Rates for poles, ducts, conduits, and rights-of-way must be “just and reasonable”; to be such, they must comply with the rate methodology set forth in section 224(d)(1) of the Act and uniformly apply to all telecommunications carriers. *Id.*, ¶¶ 182-83.

CHECKLIST ITEM (vii): 911/E911, DIRECTORY ASSISTANCE, OPERATOR CALL COMPLETION SERVICES (cont.)

Under checklist item (vii), a BOC must grant other telecommunications carriers nondiscriminatory access to "I) 911 and E911 services; II) directory assistance services to allow the other carrier's customers to obtain telephone numbers; and III) operator call completion services."

A. 911/E911

1. "Section 271 requires a BOC to provide competitors access to its 911 and E911 services in the same manner that a BOC obtains such access, *i.e.*, at parity." *Ameritech Michigan Order*, ¶ 256.
2. Thus, Ameritech is required to maintain its 911 database entries for competing LECs "with the same degree of accuracy and reliability that it maintains the database entries for its own customers." *Id.*
 - (a) this duty includes populating the 911 database with competitors' end user data and returning errors that are identified for correction by competitors, on a nondiscriminatory basis. *Id.*
 - (b) the FCC found Ameritech's performance deficient. *Id.*, ¶ 259 *et seq.* The FCC also stated that it had "concerns regarding Ameritech's efforts to detect and remedy errors in competitors' end user 911 data." *Id.*, ¶ 260.
3. With respect to facilities-based carriers, Ameritech must provide unbundled access to its 911 database and 911 interconnection and provide dedicated trunks "from the requesting carrier's switching facilities to the 911 control office at parity with what [the BOC] provides to itself." *Id.*, ¶ 256. The FCC concluded that Ameritech had not met this aspect of the checklist requirement in Ameritech Michigan's first application. *Id.*, ¶ 260. The FCC stated that it had concerns regarding "the proper functioning of competitors' trunking facilities." *Id.*
4. In its South Carolina and Louisiana applications, BellSouth demonstrated that it was providing nondiscriminatory access to 911/E911 services, and thus satisfied the requirements of checklist item (vii)(I). Specifically, BellSouth established that:
 - (a) resellers are able to provide 911 service in the same manner that BellSouth provides this service to its own customers;
 - (b) for facilities-based carriers, BellSouth makes available trunks to its switches, enabling facilities-based carriers to forward 911 calls and automatic number identification (ANI) to the appropriate tandem, or, if a tandem is unavailable, route the call over BellSouth's interoffice network using a 7-digit number;

**CHECKLIST ITEM (vii): 911/E911, DIRECTORY ASSISTANCE, OPERATOR
CALL COMPLETION SERVICES (cont.)**

- (c) BellSouth regularly monitors call blockage on E911 trunk groups, and, as necessary, takes corrective action using the same trunking service procedures as for its own E911 trunk groups; and
- (d) an independent third party manages the E911 database, and identifies errors in BellSouth records, and, in the case of CLECs that do not have a similar arrangement with the third party, errors are faxed back to the CLEC for review and resubmission. *Second Louisiana BellSouth Order*, ¶ 237.

CHECKLIST ITEM (vii): 911/E911, DIRECTORY ASSISTANCE, OPERATOR CALL COMPLETION SERVICES (cont.)

B. Directory Assistance Services/Operator Call Completion Services

1. “[N]ondiscriminatory access to directory assistance and directory listings” means that a telecommunications service provider’s customers should be able to access each LEC’s directory assistance service and obtain directory listings on a nondiscriminatory basis, regardless of the identity of the requesting customer’s local telephone service provider or the identity of the telephone service provider for the customer whose directory listing is requested. *Second Louisiana BellSouth Order*, ¶ 241.
2. The phrase “nondiscriminatory access to operator services” means that customers of all local telephone service providers should be able to connect to a local operator by dialing ‘0,’ or ‘0 plus’ the desired telephone number. *Id.*
3. Competing carriers provide operator services and directory assistance to their customers in two ways: (1) competitors can use a BOC’s operator services and directory assistance, or (2) competitors can furnish their own operator services and directory assistance. *Id.*, ¶ 242.
4. Access to BOC-supplied OS/DA service.
 - a. In the *Second BellSouth Louisiana Order*, Bell South attempted to demonstrate that it provided nondiscriminatory access to operator services and directory assistance by use of two performance measures. The Commission determined that these were appropriate measures. They are:
 - (1) the average time it takes to answer a customer’s call to “toll assistance” and directory assistance; and
 - (2) the percentage of calls answered within two time intervals, 30 seconds and 20 seconds.
 - b. The BOC must disaggregate the performance data between itself and competing carriers in order to provide evidence that competing carriers were being treated in a nondiscriminatory fashion, *or* explain why disaggregation is not feasible or is unnecessary to show nondiscrimination. *Id.*, ¶ 245. The Commission concluded that BellSouth had failed to do this in its second Louisiana application. *Id.*
 - c. BOCs also have certain branding obligations as part of this checklist item. When a competing carrier provides its customers with operator services and directory assistance using a BOC’s facilities, the BOC is required to rebrand or unbrand these services. In other words, Ameritech should either identify the service as being provided by the competing carrier, or not identify any carrier at all. *Id.*, ¶ 246. In its second Louisiana

**CHECKLIST ITEM (vii): 911/E911, DIRECTORY ASSISTANCE, OPERATOR
CALL COMPLETION SERVICES (cont.)**

application, BellSouth asserted that competing carriers could have OS/DA calls rebranded or unbranded by purchasing dedicated transport trunks between end offices in which the carrier has customers and BellSouth's OS/DA platform. *Id.*, ¶ 247. The Commission concluded that BellSouth failed to demonstrate that it complied with its branding obligations because it did not show how this method of providing branding resulted in nondiscriminatory access to OS/DA. *Id.* The Commission suggested that BellSouth could accomplish this by showing that it brands operator services calls for competing carriers in the same way it provides access to operator services for its customers. *Id.*

5. **Access to BOC's OS/DA databases.** A BOC must also provide access to its directory assistance databases, including the directory listings in such databases. *Id.*, ¶ 243. The BOC must make available all of the subscriber listing information in its directory assistance databases and do it in a way that allows competing carriers to incorporate that information into their own databases. *Id.*, ¶ 249. A BOC must either provide access on a "read only" or "per dip" basis, or provide the entire database of subscriber listings to be incorporated into the competing carrier's directory assistance databases. *Id.*, ¶ 248. BellSouth failed to comply with this obligation because it had not yet modified some of its contracts with independent companies and competitive LECs which did not permit sharing of those carriers' subscriber listings. *Id.*, ¶ 250. The Commission acknowledged that it was encouraged by BellSouth's efforts to modify those contracts, but ultimately concluded that BellSouth did not meet the requirements of the checklist item. *Id.*

CHECKLIST ITEM (viii): WHITE PAGES DIRECTORY LISTINGS

1. Under this item, a BOC is required to provide "white pages directory listings for customers of the other carrier's telephone exchange service." Consistent with the Commission's interpretation of "directory listing" as used in section 251(b)(3), the term "white pages" in section 271(c)(2)(B)(viii) refers to the local alphabetical directory that includes the residential and business listings of the customers of the local exchange provider.
2. The requirements of this checklist item are relatively straightforward:
 - (a) Ameritech is required to include listings for customers of other carriers in its white pages directory in the same manner that it lists its own customers.
 - (b) each listing must include, at a minimum, the subscriber's name, address, and telephone number. (*Second Louisiana BellSouth Order*, ¶ 255.)
3. In its application, Ameritech Michigan represented that it had complied with this checklist item by ensuring that its directory publishing affiliate would: (1) publish the listings of competing LECs in the same geographic scope as Ameritech at no charge; (2) provide initial and secondary delivery of white page directories to customers of resellers on the same basis as it provides them to Ameritech's customers; (3) license its white pages listing on a current basis to competing carriers for use in publishing their own directories; and (4) provide access to its directory listings in readily accessible magnetic tape or electronic format for the purpose of providing directory assistance. *Ameritech Michigan Order*, ¶ 121.
4. In BellSouth's second Louisiana application, the FCC found that BellSouth had satisfied the requirements of checklist item (viii) by demonstrating that it provided nondiscriminatory appearance and integration of white page listings to customers of competitive LECs, and that it provided white page listings for competitors' customers with the same accuracy and reliability that it provides for its own customers. *Second Louisiana BellSouth Order*, ¶ 253.
5. In addition, the Commission found that BellSouth had procedures in place that were intended to minimize the potential for errors in the listings provided to the customers of a competing telecommunications service provider. *Id.*, ¶ 257. BellSouth provided a reasonable opportunity to verify the accuracy of the listing before publication in the directory. *Id.*, ¶ 258. BellSouth also provided adequate documentation regarding the procedure for submitting and updating the directory listing database, and sufficient information regarding publishing schedules and deadlines. *Id.*

CHECKLIST ITEM (ix): NUMBER ADMINISTRATION

1. “Until the date by which telecommunications numbering administration guidelines, plan, or rules are established,” a BOC must provide “nondiscriminatory access to telephone numbers for assignment to the other carrier’s telephone exchange service customers.” After that time, ILECs must adhere to the applicable guidelines, plans or rules.
2. The term “nondiscriminatory access to telephone numbers” means that a BOC providing telephone numbers must permit competing providers access to telephone numbers that is identical to the access that the BOC provides to itself. *Second Louisiana BellSouth Order*, ¶ 260.
3. To satisfy this checklist item, a BOC must establish that, while acting as code administrator, it adhered to industry guidelines and the FCC’s requirements under section 251(b)(3) of the Act. *Second Louisiana BellSouth Order*, ¶ 262. BellSouth satisfied this requirement in its application. *Id.*
4. If another entity is responsible for code administration, the BOC must demonstrate that it adheres to industry guidelines and FCC rules in effect for its region, including the requirement to provide certain data to the administrator. *Id.*, ¶ 265. In the *Second Louisiana BellSouth Order*, the Commission made clear that BellSouth would have to demonstrate this in any upcoming application, since Lockheed Martin had taken over code administration during the pendency of the second application. *Id.*, ¶¶ 261, 265.

CHECKLIST ITEM (x): DATABASES

1. A BOC must provide “[n]ondiscriminatory access to databases and associated signaling necessary for call routing and completion.” In the *Local Competition First Report and Order*, the Commission identified signaling networks and call-related databases as network elements. *Second Louisiana BellSouth Order*, ¶ 266.
2. The Commission concluded that BellSouth satisfied this checklist item by making a *prima facie* showing that it has a concrete legal obligation to provide carriers with nondiscriminatory access to
 - (a) signaling networks, including signaling links and signaling transfer points;
 - (b) call-related databases necessary for call routing and completion on an unbundled basis, or in the alternative, a means of physical access to the signaling transfer point linked to the unbundled database; and
 - (c) service management systems. *Second Louisiana BellSouth Order*, ¶¶ 267-270.
3. Signaling Network. BellSouth demonstrated that it provided access to its signaling network from switches that BellSouth used for its own customers and in the same manner in which BellSouth obtained such access itself. BellSouth also asserted that carriers that provided their own switching facilities were able to access BellSouth’s signaling network for each of their switches via a signaling link between their switch and the BellSouth STP. *Id.*, ¶ 269.
4. Call-Related Databases. BellSouth demonstrated that it provided access, on an unbundled basis, to each of the following: (1) line-information databases (e.g., for calling cards); (2) toll-free databases (i.e., 800, 888); and (3) LNP access via third party provider; (4) Advanced Intelligent Network databases. BellSouth also asserted that it provided access to its call-related databases by means of physical access at the STP linked to the unbundled database, and provided a requesting telecommunications carrier that had purchased its local switching capability to use BellSouth’s SCP element in the same manner, and via the same signaling links, as BellSouth itself. *Id.*, ¶ 270. BellSouth augmented its showing that it was providing the required access to signaling and databases by demonstrating significant actual commercial usage by nineteen CLECs. *Id.*, ¶ 273.
5. Service Management Systems. BellSouth presented evidence that it provided nondiscriminatory access to service management systems. BellSouth provided requesting telecommunications carriers with the information necessary to enter correctly, or format for entry, the information relevant for input into the particular BOC SMS. BellSouth provided a requesting telecommunications carrier the same access to design, create, test, and deploy AIN-based services at the SMS, through a service creation environment, that BellSouth provided to itself. *Id.*, ¶ 272.

CHECKLIST ITEM (xi): NUMBER PORTABILITY

1. Until a BOC displays long term number portability, it is required to provide interim telecommunications number portability through remote call forwarding ("RCF"), direct inward dialing trunks ("DID"), or other comparable arrangements, with "as little impairment of functioning, quality, reliability, and convenience as possible."
2. The FCC defines number portability as "the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another." *Second Louisiana BellSouth Order*, ¶ 274.
3. BOCs also must provide *any* technically feasible method of interim number portability that is comparable to RCF and DID. Thus, BOCs must furnish, on a transitional basis, any method of number portability comparable to RCF and DID that a competing carrier requests, so long as such method is technically feasible. *Id.*, ¶¶ 277-278. The Commission specifically found that LERG-reassignment, RI-PH and DN-RI must be provided. *Id.*
4. The BOC must demonstrate compliance with any roll-out dates for long-term number portability. *Id.*, ¶ 290.
5. As part of this checklist item, the FCC has required that an applicant demonstrate that it is coordinating unbundled loop cutovers with its provisioning of interim and long-term number portability so that both are accomplished in a reasonable amount of time and with minimum service disruption. *Id.*, ¶¶ 279, 293. BellSouth failed to do this. (See discussion of checklist item (iv) above).
6. The Commission concluded that in future applications, BellSouth could demonstrate that it is providing nondiscriminatory access to interim number portability by calculating the average coordinated customer conversion intervals for loop cutovers coordinated with interim number portability. BellSouth could further demonstrate nondiscriminatory access by providing data on the average completion intervals for interim number portability ordered without unbundled loops vs. with unbundled loops. "Such information would give the Commission a means for determining the time that the customer is without service, as well as the overall time it takes to complete orders for interim number portability. This would, in turn, assist the Commission in determining whether number portability is available in a nondiscriminatory manner that does not hamper competition." *Id.*, ¶¶ 281-83.
7. A BOC must also sufficiently demonstrate that competing carriers can efficiently access its OSS to order and provision interim number portability. BellSouth failed to do this, as well. (See discussion of checklist item (ii) above; *Second Louisiana BellSouth Order*, ¶ 285.)

CHECKLIST ITEM (xi): NUMBER PORTABILITY

8. Cost recovery for interim and long term number portability must comply with the Commission's pricing rules and competitive neutrality guidelines. *Id.*, ¶ 288. The Commission concluded, based on the "present record," that BellSouth was engaging in practices for interim number portability that "may not" comply with those rules and guidelines. *Id.*, ¶¶ 289, 294.

CHECKLIST ITEM (xii): LOCAL DIALING PARITY

1. BOCs must provide “[n]ondiscriminatory access to such services or information as are necessary to allow the requesting carrier to implement local dialing parity in accordance with the requirements of section 251(b)(3).”
2. Section 251(b)(3), in turn, imposes on all LECs the duty to provide dialing parity to competing providers of telephone exchange service and telephone toll service with “nondiscriminatory access to telephone numbers, operator services, directory assistance, and directory listing, with no unreasonable dialing delays.”
3. BellSouth satisfied this element by making a *prima facie* showing that its customers and customers of competing carriers are able to dial the same number of digits to make the same calls and that competing carriers’ customers do not suffer inferior quality regarding post-dial delay, call completion rate, and transmission quality, as compared to BellSouth’s customers. *Second Louisiana BellSouth Order*, ¶¶ 296-97.

CHECKLIST ITEM (xiii): RECIPROCAL COMPENSATION

1. Section 251(b)(5) of the Act imposes on local exchange carriers the “duty to establish reciprocal compensation arrangements for the transport and termination of telecommunications.” Item (xiii) of the checklist similarly requires that a BOC have in place reciprocal compensation arrangements in accordance with § 252(d)(2). However, reciprocal compensation issues with cellular and paging companies are outside the scope of this item. *Second BellSouth Louisiana Order*, ¶ 305.
2. Thus, a *prima facie* showing includes a demonstration that
 - (a) a reciprocal compensation rate has been approved by a state commission and complies with Section 252(d)(2), and
 - (b) the BOC is making all required payments in a timely fashion. *Id.*, ¶ 299.
3. For CLECs purchasing unbundled switching or transport, the BOC should provide the CLEC with billing information necessary (*e.g.*, terminating switch usage information) for the CLEC to bill reciprocal compensation to third parties for whom the BOC transits traffic to the CLEC. However, in some cases the reciprocal compensation rate for CLECs purchasing UNEs may just be a collection of the relevant UNE rates, in which case the BOC may not demand recip. comp. payments from CLECs using UNEs because the amounts owed by the CLEC to the BOC and the BOC to the CLEC would be equal, and neither party would bill the other. In such instances the BOC may not need to provide billing information to the CLEC to satisfy item (xiii). *Id.*, ¶ 301.
4. The Internet reciprocal compensation issue was not resolved in the *Second BellSouth Louisiana Order*, although the FCC reserved the right to revisit the issue in subsequent applications. Instead, the Commission held that BellSouth satisfied checklist item (xiii), stating that “[a]t this time, we do not conclude that BellSouth is failing to make required reciprocal compensation payments in Louisiana on a timely basis.” *Id.*, ¶ 303. As the Commission explained, “[n]either this Commission nor the Louisiana Commission have reached a final determination on this matter” — *i.e.*, whether reciprocal compensation must be paid on calls to the Internet through ISPs. *Id.* Future § 271 applications should simply:
 - (a) identify the state commission orders that have been issued with respect to Internet reciprocal compensation in the BOC’s region;
 - (b) state that those orders are presently under review in various federal courts, and

CHECKLIST ITEM (xiii): RECIPROCAL COMPENSATION

- (c) state that, pending the outcome of that review, the BOC is in compliance with state commission decisions, and has paid any amounts the state commissions have required it to pay.